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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,623	02/23/2004	Richard Cypranowski	38949/284201	8390
23370	7590	11/01/2005		
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			EXAMINER NEWTON, JARED W	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/784,623	Applicant(s) CYPRANOWSKI ET AL.	
	Examiner Jared W. Newton	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 13 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/01/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 13 and 15 are objected to because of the following informalities:

- The word "foldable" in claim 13 (d) should be changed to --foldably--.
- The word "for" in claim 15 should be changed to --form--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 7, 10, 11, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0022703 to

Wintermute, II et al., in view of U.S. Patent No. 3,013,668 to Mennen.

4. In regard to claim 1, Wintermute discloses a display unit of single blank construction comprising a front panel 30 comprising at least one aperture or access area 40; at least two side panels 20 foldably connected to the front panel; a back panel 10 foldably connected to the side panels; and at least one shelf panel 70 (see FIGS. 1 and 2). Wintermute does not disclose said shelf panel foldably connected to the back panel and passing through the at least one aperture in the front panel forming a shelf.

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Mennen discloses a support structure of single blank construction comprising front 12 and rear 10 surfaces, wherein the front surface comprises cutout slots 16,18 adapted to receive shelf portions 20, which are foldably attached to said rear wall 10 (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the shelf attachment means disposed on the rear wall as disclosed by Mennen on the display unit as disclosed by Wintermute. The motivation for including foldably connected shelves would be to provide the unit as disclosed by Wintermute with a means of selectively choosing which access areas contain shelves and which do not. The current invention as disclosed by Wintermute provides a set number of shelves 70 at set heights, placed within access areas 40 (see FIGS. 1 and 2). It would be obvious to form said shelves from the rear wall and through the front panel as disclosed by Mennen, in order to allow for a plurality of shelving configurations, which in turn accommodates different sized and shaped merchandise.

5. In regard to claim 2, Wintermute in view of Mennen discloses a system comprising all of the limitations of claim 1. Wintermute further discloses an embodiment of his invention wherein said shelves 100 comprise side walls 110 (see FIG. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shelving means as disclosed in the above claim 1 rejection by Wintermute in view of Mennen with the side walls as disclosed by Wintermute. The motivation would be to provide a means for securing display items on said shelves in the case where the overall system is tilted or bumped.

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6. In regard to claim 3, Wintermute in view of Mennen discloses a system comprising all of the limitations of claim 1. Wintermute further discloses an embodiment of his invention wherein a portion of said shelves 100 tilts backwards towards the rear wall 10 (see FIG. 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the rear tilting shelf as disclosed by Wintermute on the system as disclosed by Wintermute in view of Mennen. The motivation would be to bias stored display items towards the rear of the system so that they do not approach the front edge of said system, where they are liable to fall.

7. In regard to claim 4 Wintermute in view of Mennen discloses a system comprising all of the limitations of claim 1. Wintermute further discloses an equal number of openings or apertures 40 and shelves 70 (see FIG. 2).

8. In regard to claim 6, Wintermute discloses a display unit for displaying objects comprising a back panel 10; side panels 20 connected to the back panel; a front panel 30 connected to the side panels, the front panel comprising a plurality of openings 40; and shelves 70 extending from the back wall to said openings (see FIGS. 1 and 2). Wintermute further discloses an embodiment of said shelves comprising side walls and capable of holding a module of a product (see FIG. 4). Wintermute does not disclose said shelves as being foldably connected to said back wall. Mennen discloses a device comprising front and rear walls 12 and 10, further comprising openings 16, 18 through which shelf portions pass through, which are foldably attached to said rear wall (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the

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invention to combine the shelf portions as disclosed by Mennen with the display as disclosed by Wintermute for reasons advanced above in the claim 1 rejection.

9. In regard to claim 7, Wintermute in view of Mennen discloses a system comprising all of the limitations of claim 6. The examiner takes official notice that it is obvious and well known in the art of display units to construct shelves adapted to support merchandise so that said shelves form a friction fit with said merchandise. The obvious motivation for said construction would be to securely hold said merchandise in place while not wasting space by having shelves that are wider than the product they support.

10. In regard to claim 10, Wintermute discloses a display unit comprising a top panel 120 connected to a front panel 30, wherein the front panel comprises a plurality of openings or access areas 40; two side panels 20 connected to said front panel; a bottom panel 100; two back panels 10 connected to respective side panels, and a plurality of shelf panels 100 comprising bottom panels and side panels 110 (see FIGS. 4, 5, and 6). Wintermute does not disclose top and bottom flaps or vertical cut lines on the edges of said flaps. The examiner takes official notice that it is obvious and well known in the art of single-blank display racks and the like to use flaps similar to those according to the present invention in order to secure different portions of display system blanks to each other. The motivation for including said tabs is to provide a blank that can be formed into a rack or the like without the need for additional securing or fastening means. Wintermute does not disclose said shelf panels connected to said back panels. Mennen discloses shelf portions 20 connected to and extending from rear

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wall 10, further extending through slots 16,18 disposed along front wall 12 (see FIG. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the shelf means as disclosed by Mennen with the display structure as disclosed by Wintermute. The motivation for said combination would be to provide for a plurality of shelf configurations as set forth above in the claim 1 rejection.

11. In regard to claim 11, Wintermute in view of Mennen discloses a device including all of the limitations of claim 10. Wintermute further discloses said first and second back panels 10 forming a back panel when the product display is assembled (see FIG. 6).

12. In regard to claim 13, Wintermute discloses a display unit comprising:

- a. A front panel 30 comprising a plurality of apertures or access areas 40, said front panel comprising a top edge, two side edges and a bottom edge;
- b. A pair of side panels 20 foldably connected to said front panel;
- c. A first back panel foldably connected to one of the side panels and a second back panel foldably connected to the second side panel;
- d. And, a plurality of shelf panels 70 (see FIGS. 5 and 6).

Wintermute does not disclose first and second tab panels foldably connected to the first and second back panels. The examiner takes official notice that the use of such tab panels is obvious and well known in the art as advanced above in the claim 10 rejection. Wintermute further does not disclose shelf panels connected to the back panel and extending through said apertures. Mennen discloses shelf portions 20 connected to and extending from rear wall 10, further extending through slots 16,18

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disposed along front wall 12 (see FIG. 1) as set forth above in the claim 1 and 10 rejections.

13. In regard to claim 14, Wintermute in view of Mennen discloses a device including all of the limitations of claim 13 as advanced above. The examiner takes official notice that it is obvious and well known in the art of single-blank support structures to construct any support so that a top panel is foldably connected to the top edge of a front panel and a bottom panel is foldably connected to the bottom edge of said front panel. Such construction is well known and taught in the construction of various types of cardboard storage boxes. It would have been obvious to one of ordinary skill in the art at the time of the invention to include top and bottom panels connected to top and bottom edges of the front panel as disclosed by Wintermute in view of Mennen. The motivation would be to provide both an integral base support at the bottom so that weight from above is distributed along said base, and an integral additional means of supporting display elements on the top panel.

14. In regard to claim 15, Wintermute in view of Mennen discloses a device including all of the limitations of claim 13. Wintermute further discloses said first and second back panels 10 forming a back panel when the product display is assembled (see FIG. 6).

15. In regard to claim 16, Wintermute in view of Mennen discloses a device including all of the limitations of claim 13. Wintermute further discloses an embodiment of his invention wherein shelves 100 comprise side walls 110 (see FIG. 4) as set forth in the claim 2 rejection above.

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16. Claims 5, 8, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wintermute in view Mennen, in further view of U.S. Patent No. 1,752,655 to Scherotto. In regard to claims 5,9, and 12, Wintermute in view of Mennen discloses a device comprising all of the limitations of claims 1,6, and 10 as advanced above. Wintermute in view of Mennen does not disclose retention tabs located on the rear portions of said shelves. Scherotto discloses a package display device comprising front and back members 2 and 3, a table or shelf portion 8, and an upwardly protruding ear 9 at the rear of said shelf portion which is adapted to retain a package 5 placed on said shelf. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the retaining ear as disclosed by Scherotto on the device as disclosed by Wintermute in view of Mennen. The motivation for said inclusion would be to prevent display items from falling off the rear portion of said shelves when the shelves are filled to capacity.

17. In regard to claim 8, Wintermute discloses rearward tilting shelves as advanced in the claim 3 rejection above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent No. 3,923,160 to Hirano et al.
- U.S. Patent No. 2,851,237 to Welshenbach
- U.S. Patent No. 1,747,642 to Neitzke

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- U.S. Patent No. 1,860,324 to Einson

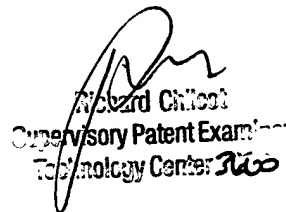
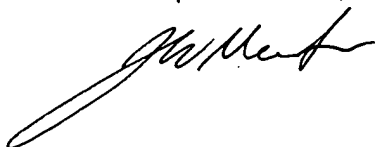
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWN

September 26, 2005



Richard Chilcot
Supervisory Patent Examiner
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